



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



STEVEN E. CHESTER
DIRECTOR

May 9, 2007

1. Bill Numbers and Sponsors:

Senate Bill (SB) 483
Senator Liz Brater

House Bill (HB) 4721
Representative Doug Bennett

2. Purpose:

These bills amend Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, by removing the sunset date on the requirement for a \$750 fee when a person petitions the Department of Environmental Quality (DEQ) for a written determination of the adequacy of a baseline environmental assessment (BEA). Section 20129a required the fee for a period of two years after the June 5, 1995, effective date of the Part 201 amendments. Since 1995, the legislation has been amended four times to extend the requirement for the fee. In 1997, the fee was extended through June 1999. In 1999, it was extended through June 2003. In May 2004, the fee was extended through June 2005. In 2005, it was extended through June 5, 2007. By removing the sunset date, the collection of this fee can continue without interruption.

3. How This Legislation Impacts Current Programs in the Department:

The BEA process allows new owners or operators to redevelop and reuse contaminated property without incurring liability for the existing contamination. The DEQ views the BEA process as a successful tool in the redevelopment of contaminated property. The DEQ has successfully implemented its statutory obligations for review of and response to BEAs since the inception of this process in 1995. Of the 10,451 BEAs submitted, 4,262 have been petitions for review and written determination. The petitions have resulted in the collection of \$3,002,250 in fees. The \$750 fee established under Part 201 was intended to cover the DEQ's cost associated with the review of BEA petitions. While the revenue generated has not been entirely sufficient to meet the statutory intent, the DEQ does not propose to increase the fee at this time.

Without the \$750 fee, the DEQ's ability to deliver this service and to deliver it in the time frames that are critical to redevelopment decision making would be severely impaired. The DEQ received approximately 25 requests per month for

determinations of BEA adequacy in the past year. If the BEA fee authority is not extended, this represents a potential of \$18,750 per month in lost revenue. Between June 2003 and May 2004, the DEQ was unable to collect BEA fees because the Legislature had not acted on a bill to extend the fee. During that time, 358 BEA determinations were provided by the DEQ. This corresponds to \$268,500 in lost revenue.

4. Introduced at Agency Request:

Yes.

5. Agency Support:

Yes.

6. Arguments Against the Bills:

None.

7. Arguments for the Bills:

The BEA program is an important tool in the redevelopment of brownfields. It promotes the productive economic use of contaminated properties. Prior to this program, developers would incur liability and the associated costs related to contamination that they did not cause, making redevelopment of brownfields considerably more expensive than development of greenfield areas. The BEA program broadens the scope of financial opportunities available for redevelopment projects due to the assurance of liability protection for the developer. As part of implementing this program, DEQ staff advise developers and other prospective purchasers about the technical and administrative requirements of the BEA process, and complete BEA reviews in a manner that is responsive to the time frames needed in redevelopment projects. Although it does not cover all costs, the \$750 fee provides the DEQ with a funding source for a portion of the costs to implement this program. Without the fee, the DEQ's ability to continue providing this service to redevelopment projects within the critical time frames would be impaired.

8. Justification for the Department's Position:

The BEAs are an important part of the overall initiative for brownfield redevelopment and managed land use. The monies collected through the fee are needed to continue the timely and efficient departmental support of the program.

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9. State Revenue/Budgetary Implications:

A total of \$2,812,500 in BEA review fees has been collected since the inception of this program in 1995. Continuation of this fee will not entirely cover the DEQ's costs; however, the elimination of the fee would have a significant negative impact on the DEQ's ability to effectively deliver this service.

10. Implications to Local Units of Government:

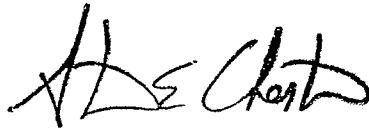
Local units of government that are doing BEAs for themselves or working with redevelopment projects in their communities depend upon the DEQ to make timely responses to the BEA petitions. Without the continuation of the \$750 fee, the ability of the DEQ to continue to respond in a timely manner would be impaired. This could result in the loss of brownfield redevelopment projects in those communities. The ability of private developers to secure liability protection through the BEA process is also integral to facilitating redevelopment and restoring or increasing local tax base.

11. Administrative Rules Implications:

None.

12. Other Pertinent Information:

None.

A handwritten signature in black ink, appearing to read "STEVEN E. CHESTER".

Steven E. Chester, Director
Department of Environmental Quality

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